

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

FILED

FEB 10 2017

Clerk, U.S. District Court
Texas Eastern

UNITED STATES OF AMERICA,

Plaintiff,

v.

ROBERT CASTILLO,

Defendant.

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CRIMINAL ACTION NO. 4:10-CR-0211

**REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Now before the Court is the request for revocation of Defendant's supervised release. After the District Judge referred the matter to this Court for a report and recommendation, the Court conducted a hearing on February 10, 2017, to determine whether Defendant violated his supervised release. Defendant was represented by Robert Arrambide. The Government was represented by Marisa Miller.

Robert Castillo was sentenced on September 15, 2011, before The Honorable David J. Folsom of the Eastern District of Texas after pleading guilty to the offense of Possession of Firearms by a Felon, a Class C felony. This offense carried a statutory maximum imprisonment term of 10 years. The guideline imprisonment range, based on a total offense level of 13 and a criminal history category of IV, was 24 to 30 months. Robert Castillo was subsequently sentenced to 30 months imprisonment followed by a 3-year term of supervised release subject to the standard conditions of release, plus special conditions to include financial disclosure; drug treatment and testing; required to pay child support; obtain a GED, and pay a \$100 special assessment. On

December 23, 2013, Robert Castillo completed his period of imprisonment and began service of the supervision term.

On April 17, 2014, this case was reassigned to U.S. District Judge Marcia A. Crone.

On December 8, 2016, the U.S. Probation Officer executed a Petition for Warrant or Summons for Offender Under Supervision [Dkt. 40 Sealed]. The Petition asserted that Defendant violated five (5) conditions of supervision, as follows: (1) Defendant shall not unlawfully possess a controlled substance; (2) Defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician; (3) Defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month; (4) Defendant shall notify the probation officer at least ten days prior to any change of residence or employment; (5) Defendant shall participate in a program of testing and treatment for drug abuse, under the guidance and direction of the U.S. Probation Office, until such time as the Defendant is released from the program by the probation officer.

The Petition alleges that Defendant committed the following acts: (1) On April 8, 2014, Defendant submitted a urine specimen with tested positive for methamphetamine. On April 9, 2014, he admitted verbally and in writing that use used said substance on April 7, 2014; (2) On January 13, 2016, Defendant submitted a urine specimen which tested positive for methamphetamine. On the same date, he admitted verbally and in writing that he used said substance. On July 8, 2016, Defendant submitted a urine specimen which tested positive for methamphetamine. On July 18, 2016, he admitted verbally and in writing that he used said substance. On November 16, 2016, Defendant submitted a urine specimen which tested positive for methamphetamine. On November 30, 2016, he admitted verbally and in writing that he used

said substance; (3) Defendant failed to submit his monthly supervision report by the 5th of the month for the months of March and August 2015; (4) Defendant failed to notify the probation officer at least ten days prior to change in residence. On September 19, 2016, Defendant notified the probation office that he changed residences the previous week; (5) Defendant failed to attend drug treatment at Fletcher Counseling, Plano, TX on March 31, April 13, and August 18, 2016, as directed. Defendant also failed to submit to drug testing as directed on May 13, May 31, August 3, and October 14, 2016.

Prior to the Government putting on its case, Defendant entered a plea of true to all five (5) of the allegations of the Petition. Having considered the Petition and the plea of true to allegations one (1), two (2), three (3), four (4) and five (5), the Court finds that Defendant did violate his conditions of supervised release. Defendant waived his right to allocate before the District Judge and his right to object to the report and recommendation of this Court.

RECOMMENDATION

Pursuant to the Sentencing Reform Act of 1984, the Court recommends that Defendant's supervised release be revoked and that he be committed to the custody of the Bureau of Prisons to be imprisoned for a term of twelve (12) months plus one (1) day, with no term of supervised release to follow.

The Court also recommends that Defendant be housed in the Bureau of Prisons Seagoville facility, if appropriate.

SIGNED this 10th day of February, 2017.

A handwritten signature in black ink, appearing to read 'C. Nowak', written over a horizontal line.

Christine A. Nowak
UNITED STATES MAGISTRATE JUDGE